

BEFORE THE DIVISION OF INSURANCE

STATE OF COLORADO

FINAL AGENCY ORDER O-05-052

**IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF TITAN
INDEMNITY COMPANY,**

Respondent

THIS MATTER comes before the Colorado Commissioner of Insurance (the "Commissioner") as a result of a market conduct examination conducted by the Colorado Division of Insurance (the "Division") of Titan Indemnity Company (the "Respondent"), pursuant to §§ 10-1-201 to 207, C.R.S. The Commissioner has considered and reviewed the market conduct examination report dated June 23, 2004 (the "Report"), relevant examiner work papers, all written submissions and rebuttals, and the recommendations of staff. The Commissioner finds and orders as follows:

FINDINGS OF FACT

1. At all relevant times, the Respondent was a corporation licensed by the Division to conduct all lines of property and casualty insurance.
2. In accordance with §§ 10-1-201 to 207, C.R.S., on June 23, 2004, the Division completed a market conduct examination of the Respondent. The period of examination was January 1, 2003, to December 31, 2003.
3. In scheduling the market conduct examination and in determining its nature and scope, the Commissioner considered such matters as complaint analyses, underwriting and claims practices, pricing, product solicitation, policy form compliance, market share analyses, and other criteria as set forth in the most recent available edition of the examiners' handbook adopted by the National Association of Insurance Commissioners, as required by § 10-1-203(1), C.R.S.
4. In conducting the examination, the examiners observed those guidelines and procedures set forth in the most recent available edition of the examiners' handbook adopted by the National Association of Insurance Commissioners and the Colorado insurance examiners handbook. The Commissioner also employed other guidelines and procedures that he deemed appropriate, pursuant to § 10-1-204(1), C.R.S.
5. The market conduct examiners prepared the Report. The Report is comprised of only the facts appearing upon the books, records, or other documents of the

Respondent, its agents or other persons examined, or as ascertained from the testimony of the Respondent's officers or agents or other persons examined concerning Respondent's affairs. The Report contains the conclusions and recommendations that the examiners find reasonably warranted based upon the facts.

6. Respondent delivered to the Division written submissions and rebuttals to the Report.
7. The Commissioner has fully considered and reviewed the Report, any and all of Respondent's submissions and rebuttals, and all relevant portions of the examiners' work papers.

CONCLUSIONS OF LAW AND ORDER

8. Unless expressly modified in this Final Agency Order (the "Order"), the Commissioner adopts the facts, conclusions and recommendations contained in the Report. A copy of the Report is attached to the Order and is incorporated by reference.
9. Issue A concerns the following violation: Failure to use a compliant form for cancellation and non-renewal notices. The Respondent shall provide evidence that it has corrected its procedures and implemented a plan to ensure that all cancellation and non-renewal notices to insureds are complete and in compliance with Colorado insurance law.
10. Issue B concerns the following violation: Failure to provide a specific reason on non-renewal notices. The Respondent shall provide evidence that it has revised its procedures to include clear and specific reasons in non-renewal notices to ensure compliance with Colorado insurance law.
11. Issue C concerns the following violation: Failure, in some cases, to use a complying reason for non-renewal of a private passenger automobile policy. The Respondent shall provide evidence that it has corrected its procedures concerning the non-renewal of policies in effect longer than fifty-nine (59) days to ensure compliance with Colorado insurance law.
12. Issue D concerns the following violation: Failure to provide policyholders with proper notification of an increase in premium. The Respondent shall provide evidence that it has corrected its procedures concerning surcharging policies at renewal to include the proper notification to ensure compliance with Colorado insurance law.
13. Issue E concerns the following violation: Failure to correctly apply the Senior Safe Driver Discount to comply with Colorado insurance law. The Respondent shall

provide evidence that it has changed its procedures in the application of the Senior Safe Driver Discount to ensure compliance with Colorado insurance law.

14. Issue F concerns the following violation: Failure to file a complete tier-rating plan with the Division. The Respondent shall provide evidence that it has corrected its rate filing to include complete information concerning rate and tier classifications to ensure compliance with Colorado insurance law.
15. Issue G concerns the following violation: Failure, in some cases, to pay PIP benefits in a timely manner. The Respondent shall provide evidence that it has reviewed its claims handling of PIP benefit payments and implemented necessary changes to ensure compliance with Colorado insurance law.
16. Issue H concerns the following violation: Failure, in some cases, to pay claims in accordance with the Respondent's written claim procedure manual. The Respondent shall provide evidence that it has reviewed its claims handling procedures and implemented necessary changes to ensure compliance with Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
17. Pursuant to § 10-1-205(3)(d), C.R.S., the Respondent shall pay a civil penalty in the amount of fifteen thousand dollars and no/100 (\$15,000.00). This fine represents a combined fine for the cited violations of Colorado law. This fine was calculated in accordance with Division guidelines for assessing penalties and fines, including Division bulletin no. 1-98, issued on January 1, 1998.
18. Unless otherwise specified in this Order, all requirements with this Order shall be completed within thirty (30) days of the date of this Order. Respondent shall submit written evidence of compliance with all requirements to the Division within the thirty (30) day time frame, except where Respondent has already complied, as specifically noted in the Order. Copies of any rate and form filings shall be provided to the rate and forms section with evidence of the filings sent to the market conduct section. All self-audits, if any, shall be performed in accordance with Division's document, 'Guidelines for Self Audits Performed by Companies' presented at the market conduct examination exit meeting. Unless otherwise specified in this Order, all self-audit reports must be received within ninety (90) days of the Order, with a summary of the findings and all monetary payments to covered persons.
19. This Order shall not prevent the Division from commencing future agency action relating to conduct of the Respondent not specifically addressed in the Report, not resolved according to the terms and conditions in this Order, or occurring before or after the examination period. Failure by the Respondent to comply with the terms of this Order may result in additional actions, penalties and sanctions, as provided for by law.

20. Copies of the examination report, the Respondent's response, and this Order will be made available to the public no earlier than thirty (30) days after the date of this Order, subject to the requirements of § 10-1-205, C.R.S.

WHEREFORE: It is hereby ordered that the findings and conclusions contained in the Report dated June 23, 2004 are hereby adopted and filed and made an official record of this office, and the above Order is hereby approved this 25th day of October, 2004.

A handwritten signature in black ink that reads "Doug Dean". The signature is written in a cursive, flowing style.

Doug Dean
Commissioner of Insurance

CERTIFICATE OF CERTIFIED MAILING

I hereby certify that on the 25th day of October, 2004, I caused to be deposited the **Final Agency Order No. O-05-052 IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF TITAN INDEMNITY COMPANY**, in the United States mail via certified mailing with proper postage affixed and addressed to:

Mr. John Burkhalter, President
Titan Indemnity Company
2700 N.E. Loop 410, Ste. 500
San Antonio, TX 78217

Assunta Rossi,
Vice President and Assistant General Counsel
Titan Indemnity Company
2700 N.E. Loop 410, Ste. 500
San Antonio, TX 78217

A handwritten signature in cursive script, reading "Dolores Arrington", is positioned above a horizontal line. A vertical red line is drawn to the right of the signature.

Dolores Arrington, MA, AIRC
Market Conduct Section